

Docket No.: NHL-ASC-01-C2
Serial No.: 10/827,463
Customer No.: 00432

REMARKS

The Office Action dated January 25, 2005, has been reviewed in detail and the application has been amended in the sincere effort to place the same in condition for allowance. Reconsideration of the application and allowance in its amended form are requested based on the following remarks.

Applicants retain the right to pursue broader claims under 35 U.S.C. §120.

Applicants have provided a unique solution with respect to problems regarding A METHOD FOR DETERMINING VISION DEFECTS AND FOR COLLECTING DATA FOR CORRECTING VISION DEFECTS OF THE EYE BY INTERACTION OF A PATIENT WITH AN EXAMINER AND APPARATUS THEREFOR. Applicants' solution is now claimed in a manner that satisfies the requirements of 35 U.S.C. §102.

Rejection of Claims 21 and 31 Under 35 U.S.C. §102:

Claims 21 and 31 were rejected under 35 U.S.C. §102, as being unpatentable over Griffin et al. Griffin, as best understood, discloses an internet-based, self-examination system in which a user or patient views an eye chart on a computer screen. The patient can enter

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information into a program that in turn changes the appearance of the eye chart until the patient indicates that the eye chart can be clearly seen. Based on the data input into the program and the user's response to the modified eye chart, a corrective lens prescription can be generated. Griffin, as understood, does not teach or suggest the use of an adaptive optical system.

In contrast, Claim 21 recites, among other things: "an adaptive optical system being configured to form an image to be perceived by the patient." Adaptive optical systems are well known in the art, such as disclosed by the two references cited in the application of which the present application is a continuation, that is, U.S. Application No. 10/160,345, now U.S. Patent No. 6,722,767 B2. Both Williams et al. (U.S. Patent No. 6,379,005 B1) and Blum et al. (U.S. 6,491,394 B1) were cited in U.S. Patent No. 6,722,767 B2 and disclose the use of adaptive optical systems or adaptive optics in the area of vision correction. It is therefore respectfully submitted that Claim 21 distinguishes over Griffin and is allowable.

Also in contrast, amended Claim 31 recites, among other things: "A method for determining vision defects and for collecting data for

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correcting vision defects of at least one eye of a patient by interaction with the patient using an adaptive optical system being configured to have its optical characteristics changed by at least one signal from an electronic control system." It is therefore respectfully submitted that Claim 31 distinguishes over Griffin and is allowable.

In addition, new Claims 41 and 42 have been presented herein. In contrast to Griffin, Claim 41 recites "said apparatus is configured to determine and obtain corrective data for lower order aberrations and higher order aberrations of the eye of a patient through interaction with the patient." Griffin does not disclose a device or system that is configured to determine and obtain corrective data for higher order aberrations of the eye of a patient, but rather only for lower order aberrations. It is therefore respectfully submitted that Claim 41 distinguishes over Griffin and is allowable.

Also in contrast to Griffin, Claim 42 recites "said method comprises a method for determining and obtaining corrective data for lower order aberrations and higher order aberrations of the eye of a patient through interaction with the patient." Griffin does not disclose a method for determining and obtaining corrective data for higher

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order aberrations of the eye of a patient, but rather only for lower order aberrations. It is therefore respectfully submitted that Claim 42 distinguishes over Griffin and is allowable.

Double Patenting:

Claims 20-40 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-20 of U.S. Patent No. 6,722,767. A terminal disclaimer and fee are submitted herewith to overcome this rejection.

Art Made of Record:

The prior art made of record and not applied has been carefully reviewed, and it is submitted that it does not, either taken singly or in any reasonable combination with the other prior art of record, defeat the patentability of the present invention or render the present invention obvious. Further, Applicants are in agreement with the Examiner that the prior art made of record and not applied does not appear to be material to the patentability of the claims currently pending in this application.

In view of the above, it is respectfully submitted that this application is in condition for allowance, and early action towards that

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end is respectfully requested.

Summary and Conclusion:

It is submitted that Applicants have provided a new and unique
A METHOD FOR DETERMINING VISION DEFECTS AND FOR
COLLECTING DATA FOR CORRECTING VISION DEFECTS OF THE
EYE BY INTERACTION OF A PATIENT WITH AN EXAMINER AND
APPARATUS THEREFOR. It is submitted that the claims, as
amended, are fully distinguishable from the prior art. Therefore, it is
requested that a Notice of Allowance be issued at an early date.

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Respectfully submitted,



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